



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Acknowledging Lodi Nut Company's Permitted Industrial Use at 1206, 1218 and 1230 South Fairmont Avenue

MEETING DATE: August 18, 2010

PREPARED BY: Interim City Manager

RECOMMENDED ACTION: Adopt resolution acknowledging Lodi Nut Company's permitted industrial use at 1206, 1218 and 1230 South Fairmont Avenue.

BACKGROUND INFORMATION: Lodi Nut Company has operated at this general location since 1919, 36 years before it and surrounding properties were annexed into the City of Lodi and zoned for residential use. As a result, the company has not needed a Use Permit from the City.

When the City identified properties for the San Joaquin County Enterprise Zone in 2008, Lodi Nut Company was excluded because of two potentially disqualifying elements: First, it was not contiguous with any other industrial or commercial property and, second, it was located on property zoned residential, although it has a legal nonconforming use.

The City, working with the State Department of Housing and Community Development, is attempting to add Lodi Nut Company to the Enterprise Zone as part of a larger expansion application by San Joaquin County's Economic Development Department. Although the Enterprise Zone's contact at HCD has said Lodi Nut Company should be added to the zone despite the improper zoning and lack of a Use Permit, the company is seeking official action from the City supporting its allowed nonconforming use in the event the State balks at the addition.

As an alternative to Lodi Nut Company obtaining a Use Permit, which it does not need to continue operating, the City Council is being asked to adopt a resolution acknowledging Lodi Nut Company's permitted industrial use at its existing location. The resolution documents the City's endorsement of Lodi Nut Company's operation on South Fairmont Avenue and support the company's inclusion in the Enterprise Zone expansion application.

This resolution will not restrict the City's ability to enforce zoning regulations in the future. Because of its location in a residentially zoned area, Lodi Nut Company is unable to obtain a Use Permit for substantially different operations.

FISCAL IMPACT: None.

FUNDING: Not applicable.


Konrad Bartlam
Interim City Manager

Prepared by: Jeff Hood, Management Analyst
Attachments: Map (Exhibit A), Letter to HCD (Exhibit B)

APPROVED:


Konrad Bartlam, Interim City Manager

Exhibit A

Lodi Nut Company



CITY COUNCIL

PHIL KATZAKIAN, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
BOB JOHNSON
JOANNE MOUNCE
LARRY D. HANSEN

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702 / FAX (209) 333-6807
www.lodi.gov cityclerk@lodi.gov

FILE COPY

BLAIR KING, City Manager
RANDI JOHL, City Clerk
D. STEPHEN SCHWABAUER
City Attorney

Dec. 9, 2009

Lynn L. Jacobs, Director
California Department of Housing and Community Development
1800 Third Street
Sacramento, CA 95811-6942

Dear Ms. Jacobs,

The City of Lodi requests that the Lodi Nut Company, 1230 S. Fairmont Ave. (APNs 031-070-13 and 031-070-14) be added to the San Joaquin County Enterprise Zone.

Essentially, Lodi Nut Company started as an industrial business outside the Lodi city limits more than 90 years ago. Over time, the City grew around the plant, annexing the property in 1955. Because Lodi Nut Company was an existing industrial use and has continuously operated ever since, the industrial use is allowed by the City as a “grandfathered” nonconforming use on a residentially zoned parcel.

Attached is a letter from Calvin Suess, president of the Lodi Nut Company, outlining his company’s history in Lodi, facts that are corroborated by City records.

Lodi Nut Company has never been required to obtain a use permit. To illustrate the company’s long history, Lodi Nut Company operates under City business license No. 537, while newly issued license numbers now are approaching 17,000.

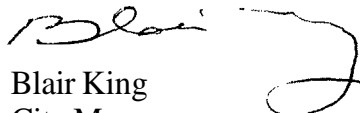
Parcel 031-070-14 is less than 200 yards from an existing Enterprise Zone parcel at 1334 S. Ham Lane (APN 032-070-32).

In the event Lodi Nut Company ceases operations at this location during the life of the San Joaquin County Enterprise Zone, the City of Lodi will take the steps necessary to remove the company’s parcels from the zone.

We hope you will agree that the unique circumstances surrounding Lodi Nut Company’s location should not exclude it from participating in the San Joaquin County Enterprise Zone.

If you have additional questions, please feel free to contact me at (209) 333-6700 or Jeff Hood in the Lodi City Manager's Office, (209) 333-6801.

Sincerely,


Blair King
City Manager

Attachment: Letter from Lodi Nut Company

LODI NUT COMPANY, INC.,

November 20, 2009

Mr. Jeff Hood
Office of the City Manager
City of Lodi
P. O. Box 3006
Lodi, CA 95241

Dear Mr. Hood,

This letter is a request that Lodi Nut Company, Inc.'s facility located at 1230 South Fairmont Avenue, Lodi, California, be included in the San Joaquin County Enterprise Zone.

Justification for this request is: Lodi Nut Company operates as a nonconforming industrial food processing plant in an area zoned R-1, Single Family Residential. The reason for the City of Lodi approval of the nonconforming use is outlined below.

History of Company – Grandfather Status

The company began operation in 1919 as Stone Nut Company – 36 years before the property was annexed to the City of Lodi on May 23, 1955. Further, our family purchased and renamed the business Lodi Nut Company in 1949 – six years before annexation. Overall, the company has been in continuous operation for 90 years at its present location. I have enclosed a copy of the Grant Deed, dated May 3, 1952 (3 years before annexation). Please note the mailing address is Route 3, Box 11-A, Lodi, California.

Upon annexation into the City of Lodi, the nut processing business was given grandfather status as a nonconforming industrial business in an area zoned R-1, Single Family Residential.

Further, over the years of operation, the city has approved four variance requests for expansion. Each time the findings of the City of Lodi Planning Commission has been: "The granting of the variance would not be detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located." As verification, as many as twenty-one neighbors, living in the vicinity of the nut company, signed a petition requesting approval of the variance. In turn, the management of Lodi Nut Company has made it a top priority to be a good neighbor.


Mr. Jeff Hood
Office of City Manager
Lodi Nut Co. Request for Inclusion into the San Joaquin County Enterprise Zone
Page 2

Inclusion of Lodi Nut Company into the San Joaquin County Enterprise Zone, as in the past variances, will have no adverse effect on the neighborhood surrounding our facilities.

If you have any questions or require additional information, please do not hesitate to call me. Office telephone (209) 334-2081; Cell Phone (209) 747-3054; email kellysuess@lodinut.com

Your assistance in the granting of this request will be greatly appreciated.

Sincerely,



Calvin (Kelly) Suess
President/CEO

Enclosure: Copy of Grant Deed

14010

PLACE INTERNAL REVENUE STAMPS IN THIS SPACE

Grant Deed

L.R.S.

TED HOCHHALTER and RUTH HOCHHALTER, his wife

(GRANTOR - GRANTORS)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Do Hereby Grant to TED HOCHHALTER and RUTH HOCHHALTER, as
and
husband/wife, as community property.

the real property in the

County of San Joaquin, State of California, described as follows:A portion of the Southeast Quarter of Section 11, T. 3 N., R. 6 E.,
M.D.B. & M., San Joaquin County, and being more particularly described
as follows:Commencing at the southwest corner of said quarter and run Easterly
along the south line of said quarter, 690.0 feet to an iron bolt;
thence North along the center line of the County Road known as Walnut
Avenue, 711.1 feet to the true point of beginning; thence North along
said center line, 335.0 feet to a point; thence Easterly and parallel
to said south line, 152.0 feet to an iron rod; thence North and para-
llel to said center line, 103.0 feet to an iron rod; thence Easterly
and parallel to said south line, 248.0 feet to an iron rod; thence
South and parallel to said center line, 300.0 feet to an iron rod;
thence Easterly and parallel to said south line, 185.0 feet to an
iron rod; thence South and parallel to said center line, 138.0 feet
to an iron rod; thence Westerly and parallel to said south line,
585.0 feet to the point of beginning, containing 4.25 acres, more
or less.Subject to the County Road known as Walnut Avenue over West 30, feet
thereof.Dated May 3rd 1952Ted Hochhalter
Ruth HochhalterSTATE OF CALIFORNIA
COUNTY OF
SAN JOAQUIN

SS.

On May 3rd 1952
before me, ANTHONY N. PEROVICH
a Notary Public in and for said County and State, person-
ally appeared
TED HOCHHALTER and RUTH
HOCHHALTER, his wifeknown to me to be the person(s) whose name(s) are
subscribed to the within instrument and acknowledged that
they executed the same.

WITNESS my hand and official seal.

(Seal) Anthony N. Perovich
Notary Public in and for said County and State.My Commission Expires Nov. 20, 1952

SPACE BELOW FOR RECORDER'S USE ONLY

14010

RECORDED

RECORDED BY

Litts, Mullen & Perovich

MAY 6 1952 - 84 M

in BOOK 1419 PAGE 425

OFFICIAL RECORDS
OF SAN JOAQUIN COUNTYMartha H. Oehler

County Recorder

FEES \$ 1.80

WHEN RECORDED PLEASE MAIL THIS INSTRUMENT TO

Ted Hochhalter
M. 3, Box 11-A, Lodi, Calif.

RESOLUTION NO. 2010-145

A RESOLUTION OF THE LODI CITY COUNCIL ACKNOWLEDGING
LODI NUT COMPANY'S PERMITTED INDUSTRIAL USE AT 1206,
1218, AND 1230 SOUTH FAIRMONT AVENUE
=====

WHEREAS, Lodi Nut Company originated in 1919 and its industrial property was annexed into the City of Lodi in 1955; and

WHEREAS, Lodi Nut Company property was zoned for residential use upon annexation; and

WHEREAS, Lodi Nut Company has a legally allowed nonconforming industrial use at its location because the residential zoning designation was established upon annexation into the City; and

WHEREAS, Lodi Nut Company's inclusion in the San Joaquin County Enterprise Zone will be a benefit to the community.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council acknowledges Lodi Nut Company's permitted industrial use at 1206, 1218, and 1230 South Fairmont Avenue.

Dated: August 18, 2010
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I hereby certify that Resolution No. 2010-145 was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 18, 2010 by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Mounce, and
Mayor Katzakian

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Johnson

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk